

EXCERPTS FROM THE DEPOSITION OF  
ELON MUSK  
TAKEN NOVEMBER 5, 2021

IN RE TESLA, INC. SECURITIES) Case No.  
LITIGATION ) 3:18-cv-04865-EMC  
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ORAL AND VIDEOTAPED DEPOSITION OF  
ELON MUSK  
NOVEMBER 5, 2021

TSG Reporting - Worldwide 877-702-9580

A P P E A R A N C E S

FOR THE PLAINTIFFS:

LEVI & KORSINSKY  
BY: MR. NICHOLAS PORRITT  
MS. ELIZABETH TRIPODI  
MS. KATHY AMES VALDIVIESO  
1101 30th Street N.W.  
Washington, DC 20007

FOR THE DEFENDANTS:

COOLEY  
BY: MR. STEPHEN NEAL  
3175 Hanover Street  
Palo Alto, California 94304

ALSO PRESENT:

CASEY MUMMERT, Videographer  
CANDACE JACKMAN, Tesla in-house counsel  
JOSHUA WALDEN (appearing telephonically)

1 FRIDAY, NOVEMBER 5, 2021, 10:32 A.M.

2 AUSTIN, TEXAS

3 THE VIDEOGRAPHER: Good morning. This is  
4 the start of media labeled Number 1 of the video  
5 recorded deposition of Mr. Elon Musk, in the matter in  
6 re Tesla, Inc. Securities Litigation, in the US District  
7 Court Northern District of California, San Francisco  
8 Division, No. 3:18-cv-04865-EMC.

9 This deposition is being held at the law  
10 offices of Armbrust & Brown on November 5th, 2021, at  
11 approximately 10:32 a.m.

12 My name is Casey Mummert. I'm the legal  
13 video specialist from TSG Reporting, Inc. headquartered  
14 in 228 East 45th Street, Suite 810, New York, New York  
15 10017.

16 The court reporter is Candice Andino in  
17 association with TSG Reporting.

18 Counsel, please introduce yourselves.

19 MR. PORRITT: Excuse me. Nicholas Porritt  
20 of the firm of Levi & Korsinsky on behalf of the  
21 Plaintiff and the Class.

22 MS. AMES VALDIVIESO: Kathy Ames on behalf  
23 of Plaintiff.

24 MS. TRIPODI: And Elizabeth Tripodi with  
25 Levi & Korsinsky on behalf of Plaintiff.

1 MR. NEAL: And I'm Stephen Neal of Cooley  
2 representing Mr. Musk and the other defendants in this  
3 case.

4 MS. JACKMAN: Candace Jackman, in-house  
5 counsel with Tesla.

6 (Witness sworn.)

7 THE WITNESS: I do.

8 ELON MUSK,  
9 having been first duly sworn, was examined and testified  
10 as follows:

11 EXAMINATION

12 BY MR. PORRITT:

13 Q. Good morning, Mr. Musk.

14 A. Good morning.

15 Q. As you just heard, my name is Nicholas Porritt.  
16 I'm one of the counsel for the plaintiffs in this  
17 matter.

18 A. Okay.

19 Q. I'll be taking your deposition today. I know  
20 you've been deposed before, but I'll just quickly go  
21 over a couple of ground rules just to -- just to make  
22 sure we're all on the same page. Excuse me.

23 One is we are creating a written record.  
24 You can see Candice here is writing down what I say and  
25 will write down what you say. So, with that in mind,

1 it's -- I don't recall such a case.

2 Q. And you understand that Twitter has been  
3 identified by Tesla as a source of corporate  
4 information?

5 A. Yes.

6 Q. Okay. Whose idea was that, to make it an  
7 official corporate channel?

8 A. Well, that was -- I believe it was a collective  
9 decision. You know, there is -- it's good to have some  
10 means of interacting directly with investors that --  
11 such that it does not go through a media filter.

12 So it could be, obviously -- you know, it  
13 could be through Reddit would be one way to do it as  
14 well. It could be through -- and, in fact, sometimes it  
15 is through blog pieces that are posted to the Tesla  
16 website. But some -- some means of interaction is --  
17 it's good to have direct interaction instead of just  
18 have everything pass through a media filter.

19 Q. But do you recall who made the first  
20 suggestion -- well, strike that.

21 First of all, did your Twitter account  
22 already exist before it was recognized as a corporate  
23 channel of communication by Tesla?

24 A. Yes.

25 Q. Okay. So do you recall now who suggest- --

1 be 140 characters, you know.

2 Q. And how do you decide what to -- what to tweet?

3 MR. NEAL: Object to the form of that  
4 question. Mighty broad.

5 A. I just -- you know, it's -- I guess I decide to  
6 tweet whatever seems important to convey to the public  
7 with, you know -- as with if one was speaking verbally  
8 or, you know, I think -- it -- sorry.

9 If -- the -- you know, there is -- you  
10 know, when -- when you -- when you speak to people, you  
11 have to -- you say, like, okay -- there is -- there is a  
12 mixture of things that are serious and things that are  
13 humorous. And the -- you know, there's -- this is  
14 essentially -- Twitter is like -- like me speaking.

15 So, you know, how do you decide when you  
16 want to say something? You know, I guess you -- your  
17 mind decides to say something, and you say it.

18 Q. (BY MR. PORRITT) When you're tweeting  
19 something about Tesla and you know that retail investors  
20 are following you on Twitter, do you think about what  
21 its effect will be on those investors before you tweet  
22 it?

23 A. Yes.

24 Q. Okay. How long does it typically take you to  
25 draft a tweet?

1 A. It varies, but since it -- it is essentially an  
2 expression of thoughts that I have, it's -- you know, I  
3 wouldn't say that it -- it's not like writing an essay.  
4 So it's essentially, here's a -- here's a thought that I  
5 think is worth expressing, and then I express it.

6 Q. Do you ever do threads on Twitter?

7 A. Do you mean a whole series of tweets, connected  
8 tweets?

9 Q. Yes. Correct.

10 A. At times.

11 Q. Okay. Have you ever done those on topics  
12 relating to Tesla?

13 A. Yes.

14 Q. Okay. How do you go about drafting a thread on  
15 Twitter?

16 A. Well, you -- you think about something, and  
17 then you may want to add to it. And then you may want  
18 to add to it again. And then you -- that's how you come  
19 up with a thread.

20 Q. You don't draft a lengthy -- a statement that  
21 goes beyond the character limit on Twitter and then  
22 break it up into separate tweets?

23 A. Uh, no.

24 Q. Okay. So, if you do a thread on Twitter, it's  
25 just a series of consecutive thoughts?



1 question. It's pure speculation.

2 A. Yeah, I don't know. I mean, what little I know  
3 of Brian Johnson is that his predictions about Tesla  
4 stock have been remarkably inaccurate.

5 Q. (BY MR. PORRITT) Okay. So you wouldn't say  
6 that interest in Tesla stock is driven by cult  
7 psychology?

8 A. No. And Brian Johnson's predictions about  
9 Tesla have, I think, been a contraindicator. And so, if  
10 you just did the opposite of whatever Brian Johnson  
11 recommended, you would do well.

12 Q. Okay.

13 MR. NEAL: A synthetic short.

14 A. Yes, literally. I think if you just literally  
15 did the opposite of what Brian Johnson said, you would  
16 be very -- have a great return.

17 Q. (BY MR. PORRITT) Were you aware at this time  
18 in 2018 that people would trade based on --

19 A. That's straight facts. Sorry.

20 Q. That people would -- could trade based on the  
21 tone of your tweets?

22 A. It certainly would be possible for people to  
23 trade based on tweets.

24 MR. PORRITT: Also, 127.

25 MS. AMES VALDIVIESO: 127?

1 private entity, we would need to ask them, but we could  
2 not ask them without creating a selective disclosure  
3 issue.

4 And so there needed to be a public  
5 disclosure that -- that I was considering taking Tesla  
6 public -- private. Sorry. There would have to be a  
7 public disclosure that I was taking Tesla private. This  
8 would then enable me to have conversations with all of  
9 the investors where there was not selective disclosure,  
10 where there was -- everyone was aware of the  
11 desire to -- my desire to take the company private.  
12 Then I could talk to all the investors without giving  
13 any one of them selective information, and thus  
14 determine who would be part of Tesla as a -- as a  
15 private company versus a public company.

16 I was also aware at the time that SpaceX  
17 had, for example, Fidelity as an investor, a significant  
18 investor in SpaceX as a private company. And so if  
19 Fidelity, for example, as an example of an institutional  
20 investor, was comfortable having a significant private  
21 stake -- a significant stake in SpaceX as a private  
22 company, it seemed likely that they would also retain a  
23 significant stake in Tesla as a private company. Yeah.

24 Q. Was that Fidelity fund the same fund that  
25 invests in Tesla?

1 that -- that I felt confident that we had funding  
2 secured.

3 Q. So you thought it was important -- as of  
4 July 31st, 2018, you thought it was important to rapidly  
5 make a public announcement of this plan?

6 A. Not necessarily rapidly, but the -- there was  
7 an information leak with a London newspaper,  
8 Financial Times, I believe, that I was informed about  
9 where the 5 percent investment by PIF was about to  
10 be -- they were about to write an article about it. And  
11 I was concerned that if there was a leak regarding the  
12 5 percent ownership of -- of PIF, then perhaps there  
13 would be also a leak about the take-private.

14 And so it was important to get ahead of  
15 that article and -- and just state that Tesla was  
16 considering -- that I was considering taking Tesla  
17 private, and that I felt that -- confident that funding  
18 was secured.

19 Q. All right. Well, we're getting ahead of  
20 ourselves, so I'm afraid we have to slow down a bit,  
21 but -- chronologically.

22 But my real question was: Between making a  
23 public announcement of any potential -- of you  
24 considering taking Tesla private, what do you think had  
25 to happen between the July 31st, 2018, meeting and such

1 retail base, investor base?

2 A. Well, I was aware that Fidelity owned -- that a  
3 Fidelity fund was an investor in SpaceX, that they only  
4 counted as one investor, but there were thousands,  
5 perhaps tens of thousands of investors in that Fidelity  
6 fund.

7 Q. And is SpaceX the only investment of that  
8 Fidelity fund?

9 A. No.

10 Q. Okay. But the special purpose vehicle you're  
11 contemplating here would only invest in Tesla; is that  
12 correct?

13 A. No, not necessarily.

14 Q. Okay. Had you had any discussions with  
15 Fidelity or any other institutional institution about  
16 the viability of such a fund or funds?

17 A. No. It was -- I did not feel it was possible  
18 to engage in discussions about taking Tesla private  
19 without publicly disclosing that this is something I was  
20 considering. I thought it was important to disclose  
21 publicly that I was considering taking Tesla private at  
22 \$420, not at some much higher number.

23 And -- and, in doing so, then I could gauge  
24 the interest of shareholders in taking Tesla private and  
25 do so without selectively disclosing to some

1 shareholders but not others that Tesla is considering --  
2 that I was considering taking Tesla private. I thought  
3 it was important that there be -- that all shareholders  
4 be on an equal footing in their awareness of the  
5 possibility that Tesla would go private. This was the  
6 fair and right thing to do.

7 Q. But going back to the August 2nd, 2018, email  
8 that you sent to the board, my question is: What basis  
9 did you have for stating that you would support any  
10 shareholders, remaining shareholders of Tesla as a  
11 private company?

12 MR. NEAL: He just answered that.

13 MR. PORRITT: No, he didn't. He argued  
14 about how he needed to talk to investors.

15 Q. (BY MR. PORRITT) But had you done any actual  
16 research into this?

17 A. As I said, I was aware of a significant case  
18 example with Fidelity being an investor in SpaceX as a  
19 private company. So it seemed very likely that Fidelity  
20 would be willing to invest in Tesla as a private  
21 company, whether it was in one fund or another fund, but  
22 they -- they -- they clearly did not have a fundamental  
23 problem with investing in a private company.

24 Q. All right. That's about Fidelity.

25 But has -- has SpaceX ever had a

1 is described is -- is actually not -- it's slightly  
2 inaccurate in that the board really does not have the  
3 authority, nor should they have the authority, to  
4 constrain the actions of me as an individual proposing  
5 to take the company private, because I'm a counterparty.  
6 They are not there to authorize or not authorize me.

7 So I think, in this case, the word  
8 "authorize" is -- is the wrong word. They -- it's  
9 really not up to the board. The -- the important thing  
10 here, I think, is that "do not selectively disclose  
11 things." And I came to the conclusion that it was  
12 really impossible to have conversations with some  
13 investors but not others without creating a selective  
14 disclosure problem.

15 Q. Did you try to have a conversation with an  
16 investor between August 3rd and August 7th?

17 A. I don't recall.

18 Q. All right. Well, yeah, that was -- why don't  
19 we take a break and then come back.

20 THE VIDEOGRAPHER: The time is 3:27. We  
21 are off the record.

22 (A recess was taken from 3:27 p.m.  
23 to 4:08 p.m.)

24 THE VIDEOGRAPHER: The time is 4:08. We  
25 are on the record.

1 Q. Okay. Do you recall where you were when you  
2 sent this tweet?

3 A. I think I was -- I just arrived at the airport.  
4 So, yeah, I think it was -- I -- as I recall, I had  
5 driven to the airport and then written the tweet and  
6 then taken off for the Bay Area.

7 Q. Now, you said -- you've previously testified,  
8 and I think you testified today, that you sent this  
9 tweet in response -- this -- yes, this tweet in response  
10 to the Financial Times article; is that correct?

11 A. Not in response to the Financial Times article,  
12 but in response to the note from Dave Arnold that they  
13 were likely to publish an article. So I don't think I  
14 read the Financial Times article at this time.

15 Q. Okay. How long did it take you to -- to draft  
16 this tweet?

17 A. Well, I was thinking about the -- you know,  
18 making an announcement. I had been thinking about  
19 making an announcement for a few days, and the -- the  
20 fact that there would be some article in the  
21 Financial Times about the Saudi investment made me think  
22 that I should probably announce that we're considering  
23 taking Tesla private -- or I am considering taking Tesla  
24 private.

25 Q. But why tweet it at 9:48 a.m. on the morning of

1 August 7th, 2018?

2 A. In my judgment, I thought that was the right  
3 timing.

4 Q. What was going to happen in -- strike that.

5 So 9:48 a.m. Pacific time is 12:48 p.m.  
6 Eastern time; correct?

7 A. I suppose so, yeah.

8 Q. Okay. And the markets close at 4:00 p.m.  
9 Eastern time.

10 You understand?

11 A. Yes.

12 Q. Okay. So there was just over three hours of  
13 trading time left after this tweet; correct?

14 A. Yes.

15 Q. What did you think was going to happen in those  
16 three hours of trading time that required you to send  
17 out this tweet at 9:48 a.m. Pacific time?

18 A. Well, I mean, I expected that there would  
19 probably be some increase in the stock price. It seemed  
20 likely. If you say that you're considering taking a  
21 company private or acquiring a company, people know that  
22 there is going to be some premium. In this case, I'm  
23 being clear about what that premium would be. And so,  
24 most likely, there would be an increase in the stock  
25 price proportionate to people's belief that the



1 take-private would happen.

2 Q. So thank you for that answer. So I obviously  
3 asked a bad question.

4 So before -- absent this tweet, so at -- at  
5 9:47 a.m. Pacific, what did you think was going to  
6 happen in the market if you did not tweet anything about  
7 the transaction?

8 A. I didn't know what would happen in the market,  
9 but I thought it was important to clarify -- clarify my  
10 position that I was considering taking Tesla private in  
11 case that was part of the leak from the Financial Times,  
12 in the Financial Times article.

13 Q. So you were worried that the Financial Times  
14 article, which you hadn't read yet, would reference you  
15 considering going private?

16 A. I thought it was possible, yeah.

17 Q. All right. So you thought you would tweet this  
18 ahead of time without even knowing that it would, in  
19 fact, be included in the Financial Times article?

20 A. Yeah, I -- I mean, I thought that it would  
21 actually make sense for me to make some kind of public  
22 disclosure about the fact that I'm considering taking  
23 Tesla private, because I was considering taking Tesla  
24 private. So it's just a question of what is the right  
25 timing.

1 And so this just seemed like, okay, this --  
2 this -- probably now is the right timing in case the --  
3 this should leak and -- and -- and people don't know  
4 what the actual situation is.

5 So just so there wouldn't be any confusion,  
6 or perhaps selective information that some investors  
7 could take advantage of and others could not, that the  
8 right thing to do would be to state publicly my  
9 position.

10 Q. Why not wait until after the market closed?

11 A. Well, the -- this -- I thought the leak could  
12 occur sooner than market close.

13 Q. And what was your basis for that?

14 A. Because the -- you don't know when the  
15 article's going to come out. It could come out before  
16 market close or after. So this -- I thought better to  
17 get this information out as soon as possible in case  
18 there is a leak and then that leak is inaccurate.

19 Q. Dave Arnold's email to you didn't say that they  
20 were going to -- that the article was going to address a  
21 potential going-private transaction for Tesla, did it?

22 A. No. It just said that there was a leak of  
23 information that was not public.

24 Q. Regarding the PIF's --

25 A. Yes.

1 Q. -- 5 percent ownership?

2 A. Yes.

3 Q. Was this the first of a series of intended  
4 tweets regarding the going-private transaction?

5 MR. NEAL: Wait. Do you mean did he plan  
6 right from this time to follow it up?

7 Q. (BY MR. PORRITT) Yeah, let me ask -- let me  
8 ask a better question.

9 At the time when you were writing this  
10 tweet, did you intend to issue further tweets regarding  
11 the going-private transaction on August 7th, 2018?

12 A. I thought there would probably be subsequent  
13 tweets, but I didn't know necessarily what those would  
14 be.

15 Q. Okay. So, as far as you're concerned, this  
16 disclosure contained in this opening top tweet on  
17 Exhibit 8 was, you know, complete and sufficient?

18 A. No. As I said, I thought there would probably  
19 need to be additional tweets where I elaborated and --  
20 on the first tweet, depending upon what questions people  
21 had or what concerns were raised.

22 Q. What if no one asked any questions? You were  
23 going to -- were you going to disclose any  
24 information -- more information?

25 A. Yes. If no one asked any questions, I wouldn't

1 MR. PORRITT: Okay. Well, I'm just -- it's  
2 now in the context of this -- now of the rationale  
3 expressed in this blog -- in this blog post, Exhibit 16.

4 A. Well, I mean, what drove the timing of  
5 August 7th was the Financial Times article that was  
6 coming out and my concern about what that article would  
7 contain.

8 Q. (BY MR. PORRITT) Okay. But that's nothing to  
9 do with -- first of all, that's not referenced here in  
10 Exhibit 16, is it?

11 A. Do you want me to read the whole exhibit?

12 Q. Well, you read it before, but feel free to read  
13 it again.

14 A. Okay. It's going to take me a moment.

15 (Witness reads document.)

16 MR. PORRITT: Oh, sorry.

17 A. Okay. I've read it.

18 Q. (BY MR. PORRITT) It doesn't mention tweeting  
19 in response to the Financial Times article, does it?

20 A. It doesn't.

21 Q. Okay. Do you know why not?

22 A. No.

23 Q. Wouldn't that be a complete statement as to why  
24 you made a public announcement?

25 A. I mean, this just says that I needed to make an

1 announcement in order to have discussions with  
2 shareholders and avoid selective disclosure to some  
3 shareholders but not others.

4 Q. This article also doesn't mention anything  
5 about a Saudi Arabia production facility; correct?

6 A. I didn't read anything in there about that.

7 Q. Okay. Again, do you know why that wasn't  
8 included in this blog post when you were discussing your  
9 communications with the managing director of the Saudi  
10 fund?

11 A. I don't think that was necessarily a hard  
12 requirement.

13 (Exhibit 336 marked.)

14 MR. PORRITT: Yes. I'm placing before the  
15 witness a document marked Exhibit 336. I'm not quite  
16 sure what the proper Bates number is here. I'll just do  
17 SEC-EPROD-000005623.

18 A. (Witness reviews document.)

19 Q. (BY MR. PORRITT) Have you had a chance to  
20 review? My question's about the top email, but review  
21 the entire exhibit, 336.

22 A. (Witness reviews document.)

23 Q. Have you had a chance to review Exhibit 336,  
24 Mr. Musk?

25 A. I'll read it.

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

4 IN RE TESLA, INC. SECURITIES) Case No.  
LITIGATION ) 3:18-cv-04865-EMC  
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9 REPORTER'S CERTIFICATION  
10 ORAL AND VIDEOTAPED DEPOSITION OF  
11 ELON MUSK  
12 NOVEMBER 5, 2021  
13

14 I, CANDICE ANDINO, Certified Shorthand Reporter in  
15 and for the State of Texas, hereby certify to the  
16 following:

17 That the witness, ELON MUSK, was duly sworn by the  
18 officer and that the transcript of the oral deposition  
19 is a true record of the testimony given by the witness;

20 I further certify that pursuant to FRCP Rule  
21 30(f)(1) that the signature of the deponent:

22 \_\_\_\_\_ was requested by the deponent or a party  
23 before the completion of the deposition and returned  
24 within 30 days from date of receipt of the transcript.  
25 If returned, the attached Changes and Signature Page

1 contains changes and the reasons therefor;

2       \_\_X\_\_ was not requested by the deponent or a party  
3 before the completion of the deposition.

4       I further certify that I am neither attorney nor  
5 counsel for, related to, nor employed by any of the  
6 parties to the action in which this testimony was taken.

7       Further, I am not a relative or employee of any  
8 attorney of record in this cause, nor do I have a  
9 financial interest in the action.

10       Subscribed and sworn to on this 10th day of  
11 November, 2021.

12 

13 \_\_\_\_\_  
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